



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

BOOK REVIEWS.

SOME BOOKS ON CANADA.

THE NEW EMPIRE. By O. A. HOWLAND, of Osgoode Hall, Barrister-at-Law. Toronto: Hart & Co., 1891.

This is a thoughtful and suggestive book that will repay reading. Although Mr. Howland has particularly in mind the fate of Canada, his analysis and his proposals involve the English speaking peoples of the world. He has in view the consolidation of a great Federal Empire composed of Great Britain, Ireland, Canada, Australasia and all the British Colonies and this to be brought into a very close alliance with the United States.

His scheme when fully developed and understood is not at all so Utopian as it must appear from such a bald statement of it as can be made in a short review. He does not propose such an amalgamation of legislative functions as the Imperial Federationists advocate. Their plan he considers impracticable. His union would include much less of the political life of the individual States than theirs, and would also be far more flexible. It would be what might be called a federation for mutually advantageous forbearance. The utmost actual restriction he would put upon the individuality of any State of the Federation would be that it should not be permitted to enact such laws or perform such acts as would be detrimental to any other part of the Empire. It would be expected that each member of the confederation would contribute to the defence of the Empire, but this would be a matter for the Parliament of each individual State, *e. g.*, Australia or Canada, to deal with, and to vote such supplies as it deemed expedient. The Empire as a whole would have neither power nor machin-

ery to enact laws. The Sovereign would have a Constitutional power to refuse assent to the laws passed by the Legislatures of the various States of the Confederation and the Legislatures would have the same means of coercing the Sovereign as is now possessed by the House of Commons in Great Britain. There would also be a Supreme Court which could pass upon the constitutionality of the laws enacted in the various States of the Empire. The Judges he proposes should be chosen from the Judicial Committee of the Privy Council. They should go on circuit and hold semi-annual sittings in the capitals of the various States. The State in which the court sat, at any time, should nominate one native Judge, who would be a member of the court for all cases arising in that State. In this way he thinks something of unity and consistency would be given to the laws of the Empire. Only such unity as mutual advantage would lead to is desirable in the eyes of the author, and mutual advantage would, he thinks, lead to such trade relations and plans of defence and offence as would give the Empire solidity and cohesion.

This is "The New Empire." With the United States it is to be brought into close alliance and a friendly disposition is to be maintained by the establishment of an international court, to be composed of judges chosen from the Supreme Court of the United States, and from the judicial committee of the Privy Council. This court is to be a tribunal of reference for all international questions; and each country, of course, reserves its right to appeal to arms, if in the eyes of its people any decision of the court warrants such a course. Such a court, Mr. Howland predicts, would do away with the greater part of the soreness that has too frequently existed between the two kindred peoples.

An arrangement of this nature is indeed a political possibility. As the author labors to show that it would be only the natural outcome of the development of the British Constitution, he seems to bring it almost within the range of political probability.

Mr. Howland begins to trace this development from the

eighteenth century. His first point is made by showing that there really is a "New Empire" as distinguished from the "Old Empire" of the period when the United States declared their independence. He is not the first to point out that there has been a revolution in the English Constitution since the reign of George III. ; but it is well to keep the fact before the English-speaking world, for it is one that is scarcely recognized by any but the few who give the subject very special attention. The great changes in the Imperial constitution on its *colonial* side have not, however, been clearly brought out by any preceding writer. He shows that on this side of the constitution there has been even more marked development toward democracy than in the manner of managing the domestic affairs of the realm. At the time the Thirteen Colonies seceded, the central Parliament, sitting at Westminster, claimed and exercised the right of legislating for the entire Empire. At the present time the great colonies of the British Empire are practically unfettered in their legislation and executive action by the central government. The British Parliament never thinks of passing an act affecting the domestic policy of a self-governing colony. The rebellion of the Thirteen Colonies was the first step towards the change. Shortly after their independence we have, in Canada, the constitutional act of 1791, which Mr. Howland deems entirely different in its underlying political ideas from any of the older charters or constitutions. There was, at this time, an open renunciation of the right, on the part of the British Government, to enact laws for the good governance of Canada. There was established in Canada by this act a Constitution similar in principle to the British Constitution of that period. In short, just what the Americans had asked for before the secession, and indeed what they got by their independence, was granted to the Canadians by the constitutional act. From this point the development has gone on without let or hindrance until Mr. Howland is now able to argue with a good show of reason, that the British Constitution is really a federal constitution ; that the only relationship between Great

Britain and Canada is that established by their both being subject to the same Sovereign ; that the proper official designation of Her Majesty now is Queen of Great Britain, Ireland, Canada, Australia, etc., and Empress of India ; indeed, that the colonies are now in reality States of a great federal Empire, and that all that is needed to establish his " New Empire " is official recognition by the Parliaments of the various States.

The plan of government which he sketches is, perhaps, the least valuable part of his book. But in his endeavor to establish its feasibility by showing that the present constitution of the Empire is in reality already very like what he proposes and that it has been continually growing towards his ideal for more than a century, he is led to analyze the Canadian and the British Constitutions at different periods ; and it is the acumen with which he conducts this examination that makes his book valuable. It is quite probable that he will not find many ready to accept his prescription ; but all must agree, to a very large extent, with his diagnosis. He certainly sees far into the weaknesses of the democratic institutions of the present age and fortunately he has lost that deluding habit of calling everything liberty and honesty that is enacted by the vote of a majority. He argues with truth that electoral issues must be simplified before any just conclusion can be formed from the result of a general election as to what the majority of the nation really desire. In most parliamentary elections the voter is altogether confused by the number of questions which he is called upon to decide by casting a single vote. The voter probably does not agree with all the positions taken up by either party. The consequence generally is that he does not try to arrive at a decision as to what will be for the public good, but votes for his father's party. It is only occasionally that any single question is allowed by the party managers to assume a really preponderating influence on the election. It is with a view to simplifying electoral issues by removing from this field all questions of international import that he proposes to establish the International Court. In a country where there are French, Irish, German and English populations, there may be

pending at nearly every election some question of an international nature which, when distorted by party leaders, would influence a whole class of electors and perhaps offend a neighboring State, and which would still not be at all relevant to the matters properly at issue in the election. He may, indeed, does overestimate the baneful influence of party ; but he is certainly right in saying that government in the United States and Canada is now becoming government for the party instead of for the country.

The book also deals very minutely with the settlement of the western boundary of the United States by the Treaty of 1783. The spirit of that treaty he deems to have never been fully conformed to by the Americans. He is of the opinion that the great West was deliberately handed over to the United States by Great Britain upon the understanding that there should be cordial trade relations between the two countries ; and the United States for the greater part of the time since have kept up a hostile tariff. It seems, indeed, certain, since the private correspondence in regard to that treaty has become public, that, if England had been willing to divide this vast territory between herself and Spain she might have done so. France, who was figuring as the ally of the Americans, proposed a division to the British Government whereby the United States would have received but an inconsiderable part of the Great West ; and the Americans could not have rejected the arrangement at that time in the teeth of the three European governments. If this version of the events of 1783 is correct it may fairly be argued that the subsequent policy of the United States has hardly been generous.

Mr. Howland does not, perhaps, very accurately estimate the present situation ; he may not realize the magnitude of the changes he proposes ; but he is a Canadian of the type we need—he is hopeful. He is too acute an observer to be carried away with the enthusiasm known by various names, but all of which mean that Canada cannot remain in her present political status. This is the keynote in the lament, both of Imperial Federationists and Annexationists as well as of those who look

forward to independence as a speedy boon. Canada has no need for, nor is she likely to witness any such sudden change. Our normal development is sufficient for us, whether it take us in the direction of the "New Empire," or whether it achieve the less pretentious, but more necessary work of so reforming our Constitution, that in the Dominion, as a whole, there shall not be a continual suspicion—if not a certainty—that some of the provinces are being practically bribed out of the Dominion Treasury. With men in whom the people have confidence, and she does not despair of securing such men to manage her affairs, the Dominion is doing so well that she proposes to bear the ills she has rather than to fly to others she knows not of. So completely are Jeremiades becoming the fashion with writers on Canadian affairs that Mr. Howland is to be complimented for his courage in daring to appear in print, as one who has faith in Canada and her institutions.

CONSTITUTIONAL DOCUMENTS OF CANADA. By WM. HOUSTON, M. A.
Pp. 338. Toronto : Carswell & Co., 1891.

Of Mr. Houston's work proper there is but little to be said. He has collected a number of documents, without a close study of which no one can hope to form an accurate conception of certain features of the Canadian Constitution. And although these documents were well known to every careful student of that Constitution before his publication appeared, yet he has rendered an important service to a large class of readers by making available within this narrow compass, what up to the present, has been scattered through many volumes. He has made it possible for even the casual reader to become acquainted with the foundation stones of the Constitution of Canada, in so far as they can be found in written instruments. For it must always be remembered that written Constitutions are but evidence for Constitutional history and not the history itself.

The book is in many respects modeled after Mr. Poore's now well known collection of Charters and Constitutions of